



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 13 2005

REPLY TO THE ATTENTION OF
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dave Trickel, Plant Manager
Wabash Alloys, LLC
4365 Bradley Rd.
Cleveland, Ohio 44109

Dear Mr. Trickel:

Enclosed is a file stamped Consent Agreement and Final Order
(CAFO) which resolves the Wabash Alloys, LLC matter, Docket No.
~~CAA-05-2006 0009~~ As indicated by the filing stamp on its
first page, we filed the CAFO with the Regional Hearing Clerk on
DEC 13 2005.

Pursuant to paragraph 10 of the CAFO, Wabash Alloys, LLC must pay
the civil penalty within 30 days of DEC 13 2005. Your check
must display the case docket number, ~~CAA-05-2006 0009~~ and the
billing document number, 050306007.

Please direct any questions regarding this case to Thomas
Krueger, Associate Regional Counsel, at (312) 886-0562.

Sincerely yours,

William L. MacDowell

William MacDowell
Section Chief (MN/OH)

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Wabash Alloys, LLC
Cleveland, Ohio,

Respondent.

) Docket No.

)

) **Proceeding to Assess a Civil**

) **Penalty under Section 113(d)**

) **of the Clean Air Act,**

) **42 U.S.C. § 7413(d)**

)

CAA-05-0006 0009

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Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On September 28, 2005, U.S. EPA filed the complaint in this action against Respondent Wabash Alloys, LLC (Wabash). The complaint alleges that Wabash violated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for secondary aluminum production facilities promulgated under Section 112 of the Act, 42 U.S.C. § 7412, at 40 C.F.R. § 63.1506(g)(1)(i) for its facility in Cleveland, Ohio.

3. Wabash has entered this Consent Agreement and Final Order (CAFO) prior to the deadline for filing an answer and requesting a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Wabash admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

5. Wabash waives any right to contest the allegations in the complaint and its right to appeal this CAFO.

6. Wabash certifies that it is complying fully with the NESHAP for secondary aluminum production facilities at its Cleveland, Ohio facility.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. In consideration of Wabash's prompt reporting, rapid achievement of compliance, cooperation during the pre-filing investigation, lack of any wilfulness or negligence or environmental damage, U.S. EPA agrees to mitigate the proposed penalty of \$18,600 to \$11,160.

10. Wabash must pay the \$11,160 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

11. Wabash must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, stating the Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Thomas Krueger, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13. This civil penalty is not deductible for federal tax purposes.

14. If Wabash does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The

validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Wabash will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Wabash will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

16. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the complaint.

17. The effect of the settlement described in paragraph 16 is conditional upon the accuracy of the Respondent's representations to U.S. EPA, as memorialized in paragraph 6 of this CAFO.

18. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

19. This CAFO does not affect Wabash's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 16 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant.

20. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Wabash's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

21. The terms of this CAFO bind Wabash, and its successors, and assigns.

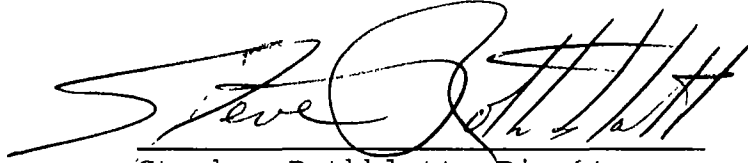
22. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

23. Each party agrees to bear its own costs and attorneys' fees in this action.

24. This CAFO constitutes the entire agreement between the parties.

U.S. Environmental Protection Agency, Complainant12/7/2005

Date



Stephen Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

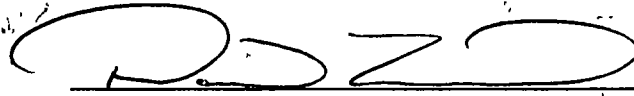
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Wabash Alloys, LLC, Respondent

11/22/05
Date



Dave Trickel, Plant Manager
Wabash Alloys, LLC

CAA-05 4006

0009
[Handwritten initials]

CONSENT AGREEMENT AND FINAL ORDER

Wabash Alloys, LLC

Docket No.

GAA-08

LUVO

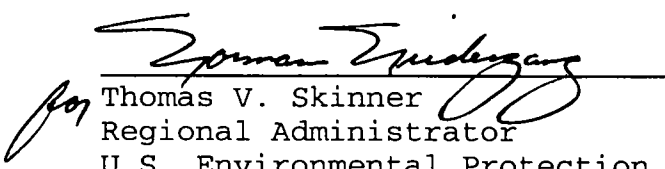
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Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This final order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

Date

12/8/05


Thomas V. Skinner
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original of the Consent Agreement, and Final Order, docket number ~~CAA-05-0006~~ 0009 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Wabash Alloys, LLC and Wabash Alloy LLC's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Dave Trickel, Plant Manager
Wabash Alloys, LLC
4365 Bradley Rd.
Cleveland, Ohio 44109

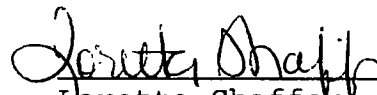
Patricia F. Sharkey, Esq.
Mayer, Brown, Rowe & Maw
71 S. Wacker Drive
Chicago, Illinois 60606-4637

US ENVIRONMENTAL
PROTECTION AGENCY
REGION V

DEC 13 13:57

REGIONAL HEARING
CLERK

on the 13th day of December, 2005.



Loretta Shaffer, Secretary
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 70010320000590256343